

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

MICHAEL WAYNE RUSTEN, MARY CUSTIS RUSTEN, SP 2011-MV-096 Appl. under Sect(s). 8-922 of the Zoning Ordinance to permit reduction of certain yard requirements to permit construction of addition 27.0 ft. from front lot line of a corner lot. Located at 7507 Milway Dr., Alexandria, 22306, on approx. 11,296 sq. ft. of land zoned R-3. Mt. Vernon District. Tax Map 93-3 ((22)) (2) 10. Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 25, 2012; and

WHEREAS, the Board has made the following findings of fact:

1. The applicants are the owners of the property.
2. The Board has a staff report where staff is recommending approval with reservations; the Board does not see that very often.
3. It is a close case and a difficult one.
4. The applicant has presented testimony showing compliance with the required standards.
5. The big problem was subsection 9 of 8-922.
6. Ordinarily, the Board would not be approving a garage that was 35 feet long.
7. Although the intrusion into the minimum yard is fairly slight, the Board still has to conclude that all the standards are met.
8. With the explanation about the chimney, the Board is satisfied that the location of the wall that is going to have the garage door has been justified.
9. A further rationale for approval would be, under subsection 9, the Board is allowed to consider preservation of existing vegetation and significant trees.
10. Based on the explanation, even though the whole addition probably could be shifted a few feet to the rear, the closer that gets to the existing tree that is in the photograph could not be helpful to the health of the tree.
11. There have been clearer cases with perhaps more obvious reasons, but the applicants have cleared the hurdle.
12. The Board did not feel that whatever happens with this addition, that there is going to be a significant negative impact on anyone.
13. The problem with the Ordinance is that the front of corner of the garage, which is furthest away from any of the neighbors, based on the photographs, there would not be any significant impact on anyone.
14. From the photographs, you can see there is a conflict between where the chimney is and where the vehicle would be now. So if the applicants are going to have a two-car garage at all, it has got to accommodate that existing chimney in some way.

15. This does not mean the Board will start approving 35-foot long garages, but in an unusual situation, it can exercise its discretion and do so.
16. All of the standards in the Section 8-922 resolution have been met.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:


1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This special permit is approved for the location and size, approximately 1,236 square feet for the proposed addition, as shown on the plat prepared by Alterra Surveys, Inc., and signed by Patrick A. Eckert, Land Surveyor, dated August 10, 2011, as revised through November 1, 2011, as submitted with this application and is not transferable to other land.
3. Pursuant to Paragraph 4 of Section 8-922 of the Zoning Ordinance, the resulting gross floor area of an addition to the existing principal structure may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (2,538 square feet existing + 3,807 square feet (150%) = 6,345 square feet maximum permitted on lot) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction special permit. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements shall be permitted without an amendment to this special permit.
4. The addition shall be generally consistent with the architectural drawings as depicted on Attachment 1 to these conditions.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Mr. Byers seconded the motion, which carried by a vote of 6-0. Mr. Hammack was absent from the meeting.

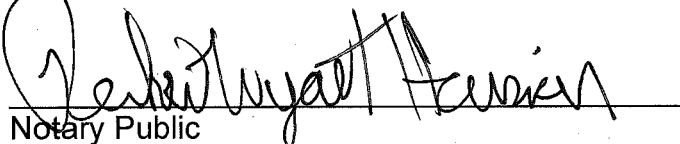
A Copy Teste:


Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals

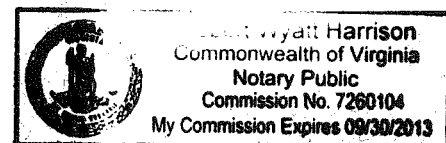
ACKNOWLEDGEMENT

County of Fairfax
Commonwealth of Virginia

The foregoing instrument was acknowledged before me this 2 day of February, 2012.


Notary Public

My commission expires: 9-30-2013



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PROJECT

Richard R. Riddick
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Drawing
Floor Plans
Exterior Elevations

Submission
For Design Review

Date
June 8, 2011
June 30, 2011
July 17, 2011

Sheet No.
A1

